

STAYED,TYPE-I

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:16-cv-00124-APM**

CLIMATE INVESTIGATIONS CENTER v. UNITED STATES
DEPARTMENT OF ENERGY
Assigned to: Judge Amit P. Mehta
Cause: 05:552 Freedom of Information Act

Date Filed: 01/26/2016
Jury Demand: None
Nature of Suit: 895 Freedom of Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

**CLIMATE INVESTIGATIONS
CENTER**

represented by **Sharon Yvette Eubanks**
BORDAS & BORDAS PLLC
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ATTORNEY TO BE NOTICED

V.

Defendant

**UNITED STATES DEPARTMENT OF
ENERGY**

represented by **Johnny Hillary Walker , III**
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Britney Berry
U.S. ATTORNEY'S OFFICE
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TERMINATED: 04/08/2016

| Date Filed | # | Docket Text |
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| 01/26/2016 | <u>1</u> | COMPLAINT <i>Climate Investigations Center</i> against UNITED STATES DEPARTMENT OF ENERGY (Filing fee \$ 400 receipt number 0090-4389249) filed by CLIMATE INVESTIGATIONS CENTER. (Attachments: # <u>1</u> Civil Cover Sheet Civil Cover Sheet, # <u>2</u> Summons Summons 1, # <u>3</u> Summons Summons 2, # <u>4</u> Summons Summons 3)(Eubanks, Sharon) (Entered: 01/26/2016) |
| 01/26/2016 | | Case Assigned to Judge Amit P. Mehta. (sth) (Entered: 01/27/2016) |
| 01/27/2016 | <u>2</u> | SUMMONS (3) Issued Electronically as to UNITED STATES DEPARTMENT OF ENERGY, U.S. Attorney and U.S. Attorney General (Attachments: # <u>1</u> Summons, # <u>2</u> Summons, # <u>3</u> Summons)(sth) (Entered: 01/27/2016) |
| 01/29/2016 | <u>3</u> | AMENDED COMPLAINT against UNITED STATES DEPARTMENT OF ENERGY filed by CLIMATE INVESTIGATIONS CENTER.(Eubanks, Sharon) (Entered: 01/29/2016) |

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| | | 01/29/2016) |
| 02/19/2016 | <u>4</u> | NOTICE of Appearance by Britney Berry on behalf of UNITED STATES DEPARTMENT OF ENERGY (Berry, Britney) (Entered: 02/19/2016) |
| 03/08/2016 | <u>5</u> | Consent MOTION for Extension of Time to <i>Respond to Plaintiff's Complaint</i> by UNITED STATES DEPARTMENT OF ENERGY (Attachments: # <u>1</u> Text of Proposed Order)(Berry, Britney) (Entered: 03/08/2016) |
| 03/08/2016 | | MINUTE ORDER granting <u>5</u> Consent Motion for Extension of Time. Defendant shall file its answer or other response to <u>3</u> Plaintiff's Amended Complaint on or before April 8, 2016. Signed by Judge Amit P. Mehta on 03/08/2016. (lcapm3) (Entered: 03/08/2016) |
| 04/08/2016 | <u>6</u> | <i>Defendant's</i> ANSWER to <u>3</u> Amended Complaint by UNITED STATES DEPARTMENT OF ENERGY. Related document: <u>3</u> Amended Complaint filed by CLIMATE INVESTIGATIONS CENTER. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G)(Berry, Britney) (Entered: 04/08/2016) |
| 04/08/2016 | <u>7</u> | NOTICE OF SUBSTITUTION OF COUNSEL by Johnny Hillary Walker, III on behalf of UNITED STATES DEPARTMENT OF ENERGY Substituting for attorney Britney Berry (Walker, Johnny) (Entered: 04/08/2016) |
| 04/08/2016 | <u>8</u> | ORDER: Both a Complaint and an Answer are now before the court in this FOIA case. It is hereby ordered that the parties shall meet and confer and file a Joint Status Report on or before April 22, 2016. Please see the attached Order for additional details. Signed by Judge Amit P. Mehta on 04/08/2016. (lcapm3) (Entered: 04/08/2016) |
| 04/08/2016 | | Set/Reset Deadlines/Hearings: Joint Status Report due by 4/22/2016. (cdw) (Entered: 04/11/2016) |
| 04/22/2016 | <u>9</u> | Joint STATUS REPORT by UNITED STATES DEPARTMENT OF ENERGY. (Attachments: # <u>1</u> Text of Proposed Order)(Walker, Johnny) (Entered: 04/22/2016) |
| 04/25/2016 | | MINUTE ORDER: Upon consideration of the <u>9</u> Joint Status Report, the parties are directed to file, on or before June 21, 2016, a subsequent Joint Status Report advising the court of the parties' progress and suggesting next steps. Signed by Judge Amit P. Mehta on 04/25/2016. (lcapm3) (Entered: 04/25/2016) |
| 04/26/2016 | | Set/Reset Deadlines: Joint Status Report due by 6/21/2016. (zmm) (Entered: 04/26/2016) |
| 06/21/2016 | <u>10</u> | Joint STATUS REPORT by UNITED STATES DEPARTMENT OF ENERGY. (Walker, Johnny) (Entered: 06/21/2016) |
| 06/23/2016 | | MINUTE ORDER: The court has reviewed <u>10</u> the parties' joint status report dated June 21, 2016, and has considered their respective positions as to further proceedings in this case. In the court's view, Defendant U.S. Department of Energy has provided good cause for the 62-day period that it seeks before submitting another joint status report. Accordingly, the parties shall submit a joint status report on August 22, 2016, in which the parties advise the court about the status of disclosures and Defendant's exemptions determinations. If appropriate, the parties shall propose a schedule for summary judgment briefing. Signed by Judge Amit P. Mehta on 06/23/2016. (lcapm3) (Entered: 06/23/2016) |
| 06/23/2016 | | Set/Reset Deadlines/Hearings: Joint Status Report due by 8/22/2016. (cdw) (Entered: 06/23/2016) |
| 08/22/2016 | <u>11</u> | Joint STATUS REPORT <i>and Proposed Briefing Schedule</i> by UNITED STATES DEPARTMENT OF ENERGY. (Attachments: # <u>1</u> Text of Proposed Order by Plaintiff, # <u>2</u> Text of Proposed Order by Defendant)(Walker, Johnny) (Entered: 08/22/2016) |
| 08/23/2016 | | VACATED PURSUANT TO COURT'S ORDER OF 10/7/2016.....MINUTE ORDER entering the following schedule for further proceedings, as proposed by the parties in their <u>11</u> Joint Status Report: (1) Defendant's Motion for Summary Judgment shall be filed by October 6, 2016; (2) Plaintiff's Opposition and Cross-Motion for Summary Judgment shall be filed by November 7, 2016; (3) Defendant's Reply and |

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| | | Opposition shall be filed by December 7, 2016; and (4) Plaintiff's Reply shall be filed by December 28, 2016. The court, at this time, declines to impose a production deadline. However, in light of the parties' agreement on a briefing schedule, the court will not be inclined to modify it to accommodate any delays in production. Signed by Judge Amit P. Mehta on 08/23/2016. (lcapm3) Modified on 8/23/2016 (cdw). Modified on 10/7/2016 (zcdw). (Entered: 08/23/2016) |
| 08/23/2016 | | Set/Reset Deadlines/Hearings: Defendant's Summary Judgment motion due by 10/6/2016. Response to Motion for Summary Judgment due by 11/7/2016. Reply to Motion for Summary Judgment due by 12/7/2016. Plaintiff's Cross Motion due by 11/7/2016. Response to Cross Motion due by 12/7/2016. Reply to Cross Motion due by 12/28/2016. (cdw) (Entered: 08/23/2016) |
| 10/06/2016 | <u>12</u> | MOTION for Extension of Time to <i>File Motion for Summary Judgment</i> by UNITED STATES DEPARTMENT OF ENERGY (Attachments: # <u>1</u> Text of Proposed Order)(Walker, Johnny) (Entered: 10/06/2016) |
| 10/07/2016 | | VACATED PURSUANT TO COURT'S ORDER OF 12/9/2016.....MINUTE ORDER granting <u>12</u> Motion for an Extension of Time to Move for Summary Judgment. The briefing schedule in this matter is the following: Defendant's Motion for Summary Judgment shall be due on or before November 7, 2016; Plaintiff's Response and Cross-Motion for Summary Judgment shall be due on or before December 9, 2016; Defendant's Response and Reply shall be due on or before January 9, 2017; Plaintiff's Reply shall be due on or before January 30, 2017. The August 23, 2016, Minute Order setting the briefing schedule in this case is hereby vacated. Signed by Judge Amit P. Mehta on 10/07/2016. Modified on 12/9/2016 (zcdw). (Entered: 10/07/2016) |
| 10/07/2016 | | Set/Reset Deadlines/Hearings: Defendant's Summary Judgment motion due by 11/7/2016. Response to Motion for Summary Judgment due by 12/9/2016. Reply to Motion for Summary Judgment due by 1/9/2017. Plaintiff's Cross Motion due by 12/9/2016. Response to Cross Motion due by 1/9/2017. Reply to Cross Motions due by 1/30/2017. (cdw) (Entered: 10/07/2016) |
| 11/07/2016 | <u>13</u> | MOTION for Summary Judgment by UNITED STATES DEPARTMENT OF ENERGY (Attachments: # <u>1</u> Statement of Facts, # <u>2</u> Memorandum in Support, # <u>3</u> Declaration of Ann Dunlap (with exhibits), # <u>4</u> Declaration of Alexander Morris (with exhibits), # <u>5</u> Exhibit 1: NETL's Vaughn Index, # <u>6</u> Exhibit 2: DOE Headquarters' Vaughn Index, # <u>7</u> Text of Proposed Order)(Walker, Johnny) (Entered: 11/07/2016) |
| 12/08/2016 | <u>14</u> | Unopposed MOTION for Extension of Time to File Response/Reply as to <u>13</u> MOTION for Summary Judgment by CLIMATE INVESTIGATIONS CENTER (Attachments: # <u>1</u> Text of Proposed Order)(Eubanks, Sharon) (Entered: 12/08/2016) |
| 12/09/2016 | | VACATED PURSUANT TO COURT'S ORDER OF 1/12/2017..... MINUTE ORDER granting <u>14</u> Motion for Extension of Time to File Plaintiff's Response and Cross-Motion for Summary Judgment. The revised briefing schedule in this matter is as follows: Plaintiff's Response and Cross-Motion for Summary Judgment shall be due on or before December 16, 2016; Defendant's Response and Reply shall be due on or before January 17, 2017; Plaintiff's Reply shall be due on or before February 6, 2017. The October 7, 2016, Minute Order setting the briefing schedule in this case is hereby vacated. Signed by Judge Amit P. Mehta on 12/09/2016. (lcapm3) Modified on 1/13/2017 (zcdw). (Entered: 12/09/2016) |
| 12/09/2016 | | Set/Reset Deadlines/Hearings: Plaintiff's Response to Motion for Summary Judgment due by 12/16/2016. Reply to Motion for Summary Judgment due by 1/17/2017. Plaintiff's Cross Motion due by 12/16/2016. Response to Cross Motion due by 1/17/2017. Reply to Cross Motion due by 2/6/2017. (cdw) (Entered: 12/09/2016) |
| 12/16/2016 | <u>15</u> | Cross MOTION for Partial Summary Judgment by CLIMATE INVESTIGATIONS CENTER (Attachments: # <u>1</u> Memorandum in Support of Plaintiff's Partial Cross Motion and Opposition, # <u>2</u> Declaration of Dan Zegart, # <u>3</u> Exhibit (A-L) to Declaration of Dan Zegart, # <u>4</u> Exhibit (M-R) to Declaration of Dan Zegart, # <u>5</u> Statement of Facts, # <u>6</u> Statement of Genuine Issues, # <u>7</u> Text of Proposed Order)(Eubanks, Sharon). (Entered: 12/16/2016) |

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| 12/16/2016 | <u>16</u> | Memorandum in opposition to re <u>13</u> MOTION for Summary Judgment filed by CLIMATE INVESTIGATIONS CENTER. (See Docket Entry <u>15</u> to view document). (znmw) (Entered: 12/19/2016) |
| 01/11/2017 | <u>17</u> | Consent MOTION for Extension of Time to <i>File a Reply in Support of Its Motion for Summary Judgment and an Opposition to Plaintiff's Cross-Motion for Summary Judgment</i> by UNITED STATES DEPARTMENT OF ENERGY (Attachments: # <u>1</u> Text of Proposed Order)(Walker, Johnny) (Entered: 01/11/2017) |
| 01/12/2017 | | MINUTE ORDER granting Defendant's <u>17</u> Consent Motion for an Extension of Time. Defendant's Reply and Opposition shall be due on or before January 30, 2017, and Plaintiff's Reply shall be due on or before February 21, 2017. The December 9, 2016, Minute Order setting the briefing schedule in this case is hereby vacated. Signed by Judge Amit P. Mehta on 01/12/2017. (lcapm3) (Entered: 01/12/2017) |
| 01/12/2017 | | Set/Reset Deadlines/Hearings: Defendant's reply and response due by 1/30/2017. Plaintiff's reply due by 2/21/2017. (cdw) (Entered: 01/13/2017) |
| 01/30/2017 | <u>18</u> | Memorandum in opposition to re <u>15</u> Cross MOTION for Partial Summary Judgment filed by UNITED STATES DEPARTMENT OF ENERGY. (Attachments: # <u>1</u> Exhibit 3, # <u>2</u> Supplemental Declaration of Ann Dunlap (with exhibits), # <u>3</u> Supplemental Declaration of Alexander Morris (with exhibit), # <u>4</u> Statement of Genuine Issues, # <u>5</u> Text of Proposed Order)(Walker, Johnny) . (Entered: 01/30/2017) |
| 01/30/2017 | <u>19</u> | REPLY to opposition to motion re <u>13</u> MOTION for Partial Summary Judgment filed by UNITED STATES DEPARTMENT OF ENERGY. (Walker, Johnny) Modified on 1/31/2017 to correct docket linkage (jf). (Entered: 01/30/2017) |
| 02/21/2017 | <u>20</u> | REPLY to opposition to motion re <u>13</u> MOTION for Summary Judgment filed by CLIMATE INVESTIGATIONS CENTER. (Attachments: # <u>1</u> Exhibit)(Eubanks, Sharon) (Entered: 02/21/2017) |
| 09/11/2017 | <u>21</u> | MEMORANDUM OPINION AND ORDER denying Defendant's <u>13</u> Motion for Summary Judgment and Plaintiff's <u>15</u> Cross-Motion for Partial Summary Judgment. If Defendant intends to renew its Motion for Summary Judgment, then the parties shall meet and confer and propose a briefing schedule by no later than October 2, 2017. See the attached Memorandum Opinion and Order for additional details. Signed by Judge Amit P. Mehta on 09/11/2017. (lcapm1) (Entered: 09/11/2017) |
| 09/11/2017 | | Set/Reset Deadlines/Hearings: Proposed Briefing Schedule due by 10/2/2017. (zcdw) (Entered: 09/12/2017) |
| 10/02/2017 | <u>22</u> | Joint MOTION for Briefing Schedule by UNITED STATES DEPARTMENT OF ENERGY (Attachments: # <u>1</u> Text of Proposed Order)(Walker, Johnny) (Entered: 10/02/2017) |
| 10/02/2017 | | MINUTE ORDER setting the schedule for further proceedings in this matter: (1) on or before November 1, 2017, the parties shall submit a Joint Status Report updating the court on the parties' efforts to resolve this dispute without further briefing; (2) Defendant shall file its Renewed Motion for Summary Judgment on or before November 16, 2017; (3) Plaintiff shall file its Opposition to Defendant's Motion for Summary Judgment and Cross-Motion for Summary Judgment on or before December 18, 2017; (4) Defendant shall file its Reply in Support of Summary Judgment and Opposition to Plaintiff's Cross-Motion for Summary Judgment on or before January 8, 2018; and (5) Plaintiff shall file its Reply in Support of Cross-Motion for Summary Judgment on or before January 29, 2018. Signed by Judge Amit P. Mehta on 10/02/2017. (lcapm1) (Entered: 10/02/2017) |
| 11/01/2017 | <u>23</u> | Joint STATUS REPORT by UNITED STATES DEPARTMENT OF ENERGY. (Walker, Johnny) (Entered: 11/01/2017) |
| 11/14/2017 | <u>24</u> | Consent MOTION for Extension of Time to <i>File a Renewed Motion for Summary Judgment</i> by UNITED STATES DEPARTMENT OF ENERGY (Attachments: # <u>1</u> Text of Proposed Order)(Walker, Johnny) (Entered: 11/14/2017) |
| 11/14/2017 | | MINUTE ORDER granting <u>24</u> Consent Motion for Extension of Time to File a Renewed Motion for Summary Judgment and setting the schedule for further proceedings in this matter: (1) Defendant shall file its Renewed Motion for Summary |

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| | | Judgment on or before December 18, 2017; (2) Plaintiff shall file its Opposition to Defendant's Motion for Summary Judgment and Cross-Motion for Summary Judgment on or before January 17, 2018; (3) Defendant shall file its Reply in Support of Summary Judgment and Opposition to Plaintiff's Cross-Motion for Summary Judgment on or before February 7, 2018; and (4) Plaintiff shall file its Reply in Support of Cross-Motion for Summary Judgment on or before February 28, 2018. Signed by Judge Amit P. Mehta on 11/14/2017. (lcapm3) (Entered: 11/14/2017) |
| 12/18/2017 | <u>25</u> | Renewed MOTION for Summary Judgment by UNITED STATES DEPARTMENT OF ENERGY (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Statement of Facts, # <u>3</u> Second Supplemental Declaration of Ann Guy, # <u>4</u> Second Supplemental Declaration of Alexander Morris, # <u>5</u> Text of Proposed Order)(Walker, Johnny) (Entered: 12/18/2017) |
| 12/19/2017 | <u>26</u> | NOTICE of Supplemental Filing of Declarations by UNITED STATES DEPARTMENT OF ENERGY re <u>25</u> MOTION for Summary Judgment (Attachments: # <u>1</u> Declaration of Bruce Long, # <u>2</u> Declaration of Christopher Cofield, # <u>3</u> Declaration of Douglas Todd, # <u>4</u> Declaration of Kerry Bowers)(Walker, Johnny) (Entered: 12/19/2017) |
| 01/17/2018 | <u>27</u> | Cross MOTION for Partial Summary Judgment <i>and opposition to defendants' renewed motion for summary judgment</i> by CLIMATE INVESTIGATIONS CENTER (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Statement of Facts, # <u>3</u> Statement Genuine Issues, # <u>4</u> Text of Proposed Order)(Eubanks, Sharon) (Entered: 01/17/2018) |
| 01/17/2018 | <u>28</u> | Memorandum in opposition to re <u>25</u> MOTION for Summary Judgment filed by CLIMATE INVESTIGATIONS CENTER. (See Docket Entry <u>27</u> to view document). (znmw) (Entered: 01/18/2018) |
| 02/07/2018 | <u>29</u> | Memorandum in opposition to re <u>27</u> Cross MOTION for Partial Summary Judgment <i>and opposition to defendants' renewed motion for summary judgment</i> filed by UNITED STATES DEPARTMENT OF ENERGY. (Attachments: # <u>1</u> Statement of Genuine Issues)(Walker, Johnny) (Entered: 02/07/2018) |
| 02/07/2018 | <u>30</u> | REPLY to opposition to motion re <u>25</u> MOTION for Summary Judgment filed by UNITED STATES DEPARTMENT OF ENERGY. (Walker, Johnny) (Entered: 02/07/2018) |
| 02/28/2018 | <u>31</u> | REPLY to opposition to motion re <u>27</u> Cross MOTION for Partial Summary Judgment <i>and opposition to defendants' renewed motion for summary judgment</i> filed by CLIMATE INVESTIGATIONS CENTER. (Attachments: # <u>1</u> Appendix)(Eubanks, Sharon) (Entered: 02/28/2018) |
| 09/19/2018 | <u>32</u> | MEMORANDUM OPINION AND ORDER. The court grants in part and denies in part Defendant's <u>25</u> Renewed Motion for Summary Judgment and Plaintiff's <u>27</u> Cross-Motion for Partial Summary Judgment. The parties shall meet and confer and, no later than October 1, 2018, propose a schedule for a final round of summary judgment briefing. See the attached Memorandum Opinion and Order for details. Signed by Judge Amit P. Mehta on 09/19/2018. (lcapm2) (Entered: 09/19/2018) |
| 09/19/2018 | | Set/Reset Deadlines: Meet & Confer Statement due by 10/1/2018. (zjd) (Entered: 09/20/2018) |
| 10/01/2018 | <u>33</u> | PROPOSED BRIEFING SCHEDULE (<i>Joint</i>) by UNITED STATES DEPARTMENT OF ENERGY. (Walker, Johnny) (Entered: 10/01/2018) |
| 10/03/2018 | | MINUTE ORDER entering the briefing schedule proposed in the parties' <u>33</u> Joint Status Report. The schedule for further proceedings in this matter is as follows: (1) Defendant's Renewed Motion for Summary Judgment is due on or before December 28, 2018; (2) Plaintiff's Opposition to Defendant's Motion and any Cross-Motion for Summary Judgment is due on or before February 11, 2019; (3) Defendant's Reply in Support of Summary Judgment and Opposition to any Cross-Motion for Summary Judgment is due on or before March 13, 2019; and (4) Plaintiff's Reply in Support of any Cross-Motion for Summary Judgment is due on or before April 3, 2019. Signed by Judge Amit P. Mehta on 10/03/2018. (lcapm2) (Entered: 10/03/2018) |
| 10/03/2018 | | Set/Reset Deadlines: Defendant's Renewed Motion for Summary Judgment due by 12/28/2018. Plaintiff's Opposition and Cross-Motion for Summary Judgment due by |

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| | | 2/11/2019. Defendant's Reply and Opposition due by 3/13/2019. Plaintiff's Reply due by 4/3/2019. (zjd) (Entered: 10/04/2018) |
| 12/27/2018 | <u>34</u> | Consent MOTION to Stay <i>Proceedings in Light of a Lapse of Appropriations</i> by UNITED STATES DEPARTMENT OF ENERGY (Attachments: # <u>1</u> Text of Proposed Order)(Walker, Johnny) (Entered: 12/27/2018) |
| 01/07/2019 | | MINUTE ORDER granting <u>34</u> Motion for a Stay of Proceedings. This matter is hereby stayed. Within three business days of Department of Justice operations resuming, Defendant shall notify the court by when it will file its Renewed Motion for Summary Judgment. Signed by Judge Amit P. Mehta on 1/7/2019. (lcapm2) (Entered: 01/07/2019) |
| 01/29/2019 | <u>35</u> | NOTICE of <i>Restored Funding and Joint Proposed Schedule</i> by UNITED STATES DEPARTMENT OF ENERGY re Order on Motion to Stay, (Walker, Johnny) (Entered: 01/29/2019) |
| 01/29/2019 | | MINUTE ORDER. In light of Defendant's Notice, ECF <u>35</u> , Defendant's renewed motion for summary judgment shall be due on or before February 15, 2019. Plaintiff's opposition and cross-motion shall be due on April 1, 2019. Defendant's opposition and reply shall be due on May 1, 2019. Plaintiff's reply shall be due on May 22, 2019. Signed by Amit P. Mehta on 1/29/2019. (lcapm2) (Entered: 01/29/2019) |